

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

DAVIES INNOVATIONS INC.	§	
	§	
Plaintiff,	§	Case No. 1:16-cv-00352-LM
	§	
v.	§	
	§	
SIG SAUER INC. and STURM, RUGER	§	
& COMPANY, INC.	§	
	§	
Defendants.		

**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Pursuant to Rule 6.1(c) of the Supplemental Rules for Patent Cases (“SPR”) and the Discovery Order (Doc. 54) issued on October 7, 2016, Plaintiff Davies Innovations Inc. (“Plaintiff”), and Defendants SIG Sauer, Inc., and Sturm, Ruger & Company, Inc. (collectively, “Defendants”), jointly submit their Joint Claim Construction and Prehearing Statement.

**I. CONSTRUCTION OF TERMS ON WHICH THE PARTIES AGREE**

In this action, Plaintiff has asserted that Defendants are infringing Claims 1, 5, 8, and 9 of U.S. Patent No. 7,827,722. Through the course of complying with SPR 6.1, the parties were able to come to an agreement that certain terms did not need construction and therefore would not be presented to the Court. To that end, Plaintiff originally proposed that three terms should be construed; it now proposes that only one needs construction. Similarly, Defendants collectively originally proposed that 15 terms should be construed; they now propose that a total of six terms should be construed, as provided in Section II below.

Pursuant to SPR 6.1(c)(1), the parties state that there are presently no terms for which the parties have agreed to any given construction. Subject to the Court’s forthcoming constructions of the six terms which the parties dispute and subject to further development of

the parties' infringement, validity, and enforceability positions, at this time the parties believe that the balance of the language of the asserted claims does not require construction.

## **II. PROPOSED CONSTRUCTION OF EACH DISPUTED TERM**

Pursuant to SPR 6.1(a) and (b), and in accordance with the approved schedule in this case, the parties exchanged lists of proposed terms for construction and proposed claim constructions, and conferred in good faith in an effort to limit the terms in dispute and narrow or resolve the parties' differences. As a result of those efforts, the parties have determined that there are six (6) claim terms in dispute, which require construction by the Court, as follows:

- “a piston moveable between a retracted position and an extended position within the cylinder”
- “an end plug removably closing the open forward end of the cylinder”
- “tubular handguard encircling the barrel”
- “channel providing clearance for the operating system”
- “barrel coupling”
- “passage of the piston/push rod assembly”

Attached as Exhibit A is a chart containing Plaintiff's and Defendants' proposed constructions of each of these disputed terms, together with identification of intrinsic evidence (*i.e.*, from the specification and/or prosecution file history) and extrinsic evidence known to the parties concerning their proposed constructions, as required by SPR 6.1(c)(2).<sup>1</sup>

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<sup>1</sup> On December 8, 2016, Defendants served Plaintiff with interrogatories and requests for production directed to claim construction matters. Plaintiff served written responses on January 6, 2017, and rolling production of materials on January 10, 2017 and February 17, 2017. Claim construction discovery will close on March 7, 2017, by which time Plaintiff should have provided all responsive, non-privileged information, along with a privilege log. As the close of claim construction discovery has not occurred, Defendants respectfully reserve their right to supplement their supporting extrinsic evidence with any information yet to be provided.

### **III. ANTICIPATED LENGTH OF TIME NECESSARY FOR CLAIM CONSTRUCTION HEARING**

In accordance with SPR 6.1(c)(3), the parties state that they anticipate that three (3) hours will be necessary for the Claim Construction Hearing.

### **IV. PROPOSED WITNESSES**

In accordance with SPR 6.1(c)(4), the parties state that there are no proposed witnesses for the Claim Construction Hearing.

Dated: February 28, 2017

Respectfully submitted,

**DAVIES INNOVATIONS INC.,**  
By its attorneys,

**SIG SAUER, INC.,**  
By its attorneys,

/s/ Glenn S. Orman

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically served the *JOINT MOTION AND CLAIM CONSTRUCTION STATEMENT* on all counsel of record via the Court's CM/ECF system, pursuant to Fed. R. Civ. P. 5(b)(2)(E).

Dated: February 28, 2017

/s/ Laura L. Carroll

Laura L. Carroll